

REMARKS

Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

The February 22, 2008 Office Action called for restriction from among the following:

Group I, claims 1-3 and 7, drawn to a method for controlling parasites in or on an animal comprising administering to the animal a parasitically effective amount of a 5-substituted-alkylaminopyrazole derivative of formula I.

Group II, claims 4-6 and 9, drawn to composition of formula I.

Group III, claim 8, drawn to a method for preparing a veterinary medicament comprising compounds of formula I.

Group IV, claim 10, drawn to a process for the preparation of a compound of formula I.

Applicants elect, with traverse, Group II. Applicants reserve the right to file divisional applications to non-elected subject matter. Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

The Office Action also required election of a single disclosed species.

Applicants elect compound of formula I, wherein R¹ is CN, R² is Cl, R³ is CF₃; W is C—Cl; R⁴ is CH₃; R⁵ is CH₃; A is C₃ alkylene and n is 2 (compound 2-12, Table II), with traverse.

According to the Office Action, Groups I-IV do not relate to a single general inventive concept.

It is noted that the MPEP lists two criteria for a proper restriction requirement. First, the inventions must be independent or distinct. (MPEP § 803) Second, searching the additional inventions must constitute an undue burden on the Examiner if restriction is not required. *Id.* The MPEP directs the Examiner to search and examine an entire application “[i]f the search and examination of an entire application can be made without serious burden, ...even though it includes claims to distinct or independent inventions.” *Id.*

It is respectfully submitted that the criteria listed in MPEP § 803 have not been met in this case, as no showing has been made that an undue burden would be placed on the Examiner. The present application relates to a composition containing as an active ingredient a compound of formula I, a method for controlling parasites in or on an animal comprising administering to the animal a composition containing as an active ingredient a compound of formula I, a method

for preparing a veterinary medicament comprising compounds of formula I, and a process for the preparation of a compound of formula I. It is respectfully submitted that a search for the composition of Group II will encompass the methods of Groups I, II and IV as they all relate to the composition of Group II. Accordingly, there is a relationship among the composition, method, and process of preparation disclosed in the invention.

Claims 1-10 are generic claims listing the core structure of formula I and its substituents as a Markush group. The Examiner is respectfully requested to review M.P.E.P. § 803.02 which states “[i]f the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they are directed to independent and distinct inventions.” Furthermore, in view of M.P.E.P. § 803, when the generic claim includes sufficiently few species that a search and examination of all the species at one time would not impose a serious burden on the examiner, then a requirement for election is inappropriate.

In the instant case, there is a disclosure of relationship between the claimed species. Applicants’ claims are directed to the same core structure of formula I. Consequently, there is a disclosed relationship between the species as they all have the same core structure. Additionally, the claims are not broken into separate classifications on the basis of which species are claimed. Consequently, it can be assumed that the classification of all the claims into a single group was made considering each of the species, such that the search of any species would be co-extensive and include the remaining species.

In summary, enforcing the present restriction requirement would result in inefficiencies and unnecessary expenditures by both the Applicants and the PTO, as well as extreme prejudice to Applicants (particularly in view of GATT, whereby a shortened patent term may result in any divisional applications filed). Restriction has not been shown to be proper, especially since it has been shown that the requisite showing of serious burden has not been made. Indeed, the search and examination of each Group would be likely to be co-extensive and, in any event, would involve such interrelated art that the search and examination of the entire application can be made without undue burden on the Examiner, especially as the claims of all Groups have identical classifications. All of the preceding, therefore, mitigate against restriction.

Consequently, reconsideration and withdrawal of the restriction requirement are respectfully requested.

CONCLUSION

In view of the remarks herein, reconsideration and withdrawal of the restriction requirement are requested.

Early and favorable consideration of the application on the merits, and early Allowance of the application are earnestly solicited.

No fee is believed to be due. The Commissioner is authorized to charge any fee occasioned by this paper, or credit any overpayment in fees, to Deposit Account No. 50-0320.

Respectfully submitted,
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